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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN CARROLL DEMOCKER,

Defendant.

) No. P1300CR20081339

) Div. 6

) **RESPONSE TO MOTION TO**
) **COMPEL PRODUCTION OF**
) **DEFENSE INTERVIEW OF**
) **STATE'S WITNESS KAREN**
) **GERE**

Steven DeMocker, by and through counsel hereby responds to the State's Motion to Compel and requests that this Court deny the State's Motion as unfounded and not supported by any authority.

On August 9, 2010 the State filed a Motion to Compel the production of any audio or written document and any transcript of a defense interview of State's witness Karen Gere. The State acknowledges that Ms. Gere is not a defense witness, but is, in

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

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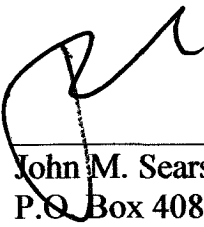
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1 fact, a State's witness. The State does not cite a single authority for the proposition that
2 it is entitled to this material, because there is no such authority. As explained to the
3 State in response to its request of defense counsel prior to the filing of its Motion,
4 Arizona Rule of Criminal Procedure 15.2 governs disclosure by the defense to the State.
5 The defense asked the State to provide any authority for the proposition that the State is
6 entitled to defense interviews of State's witnesses. The State provided no such authority
7 to the defense, just as it has provided none to the Court.

8
9 Rule 15.2 provides that the defense must disclose relevant written or recorded
10 statements of persons "*whom the defendant intends to call as witnesses at trial...*"
11 Ariz. R. Crim. P. § 15.2(c) (1) (emphasis added). As the State knows and
12 acknowledges in its Motion, Ms. Gere is not a witness the defense intends to call at trial.
13 Therefore, there is no requirement that the defense disclose any interview of her
14 pursuant to Rule 15.2 or any other authority.

15 There is no requirement that the State be notified of every defense interview, its
16 unfounded suggestion that witnesses were contacted "in secret" to the contrary
17 notwithstanding. Nor is there any requirement that the defense provide the State with
18 interviews of witnesses the defense does not intend to call at trial. The State has cited
19 the Court to no authority to the contrary, after being invited to do by defense counsel,
20 because none exists. Therefore the Court should deny the State's Motion to Compel.

21 DATED this 10th day of August, 2010.

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24 _____
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Attorneys for Defendant

ORIGINAL of the foregoing hand delivered for
filing this 10th day of August, 2010, with:

Jeanne Hicks
Clerk of the Court
Yavapai County Superior Court
120 S. Cortez
Prescott, AZ 86303

COPIES of the foregoing hand delivered
this 10th day of August, 2010, to:

The Hon. Warren R. Darrow
Judge Pro Tem B
120 S. Cortez
Prescott, AZ 86303

Joseph C. Butner, Esq.
Jeffrey Paupore, Esq.

Prescott Courthouse basket

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